

July 7, 2000

Mr. Gerald R. Rainey  
Chief Executive Officer  
AmerGen Vermont, LLC  
965 Chesterbrook Boulevard  
Wayne, PA 19087

Mr. Ross P. Barkhurst  
President and Chief Executive Officer  
Vermont Yankee Nuclear Power  
Corporation  
185 Old Ferry Road  
Brattleboro, VT 05301

SUBJECT: ORDER APPROVING TRANSFER OF LICENSE FOR VERMONT YANKEE NUCLEAR POWER STATION FROM VERMONT YANKEE NUCLEAR POWER CORPORATION TO AMERGEN VERMONT, LLC, AND APPROVING CONFORMING AMENDMENT (TAC NO. MA7875)

Dear Messrs. Rainey and Barkhurst:

The enclosed Order is in response to your application dated January 6, 2000, as supplemented by submittals dated January 13, February 18, March 13, March 30, and April 6, 2000, requesting approval of the transfer of the license for the Vermont Yankee Nuclear Power Station held by Vermont Yankee Nuclear Power Corporation to AmerGen Vermont, LLC, and approval of a conforming amendment pursuant to Sections 50.80 and 50.90 of Title 10 of the Code of Federal Regulations. The enclosed Order consents to the proposed transfer, subject to the conditions described therein. The Order also approves a conforming license amendment to be issued at the time the transfer is completed, with the changes as indicated in Enclosure 2.

Enclosures 3 and 4 contain the nonproprietary and proprietary versions, respectively, of the staff's safety evaluation related to the preceding action. The nonproprietary version of the safety evaluation will be placed in the NRC Public Document Room and added to the Agency-wide Documents Access and Management System's Publicly Available Records System (ADAMS PARS) Library. The Order has been forwarded to the Office of the Federal Register for publication.

Sincerely,

*/RA/*

Richard P. Croteau, Project Manager, Section 2  
Project Directorate I  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation

Docket No. 50-271

Enclosures: 1. Order  
2. Conforming Amendment  
3. Safety Evaluation (nonproprietary)  
4. Safety Evaluation (proprietary)

cc w/encls: See next page

**NOTE: THIS DOCUMENT CONTAINS PROPRIETARY INFORMATION. THIS DOCUMENT BECOMES NONPROPRIETARY UPON REMOVAL OF ENCLOSURE 4.**

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
 )  
VERMONT YANKEE NUCLEAR POWER ) Docket No. 50-271  
CORPORATION )  
 )  
(Vermont Yankee Nuclear Power Station) )

ORDER APPROVING TRANSFER OF LICENSE AND CONFORMING AMENDMENT

I.

Vermont Yankee Nuclear Power Corporation (VYNPC or the licensee) is the holder of Facility Operating License No. DPR-28, which authorizes the operation of Vermont Yankee Nuclear Power Station (Vermont Yankee or the facility) at steady-state power levels not in excess of 1593 megawatts thermal. The facility is located at the licensee’s site in the Town of Vernon, Windham County, Vermont. The license authorizes VYNPC to possess, use, and operate the facility.

II.

Under cover of a letter dated January 6, 2000, AmerGen Vermont, Limited Liability Company (LLC), (AmerGen Vermont) and VYNPC, jointly submitted an application requesting approval of the transfer of Facility Operating License No. DRP-28 for Vermont Yankee from VYNPC to AmerGen Vermont. The licensee and AmerGen Vermont also jointly requested approval of a conforming amendment to reflect the transfer. The application was supplemented

by submittals dated January 13, February 18, March 13, March 30, and April 6, 2000, collectively referred to as the “application” herein unless otherwise indicated.

AmerGen Vermont is a Vermont limited liability company established by AmerGen Energy Company, LLC (AmerGen), to own and operate Vermont Yankee. AmerGen Vermont is a wholly owned subsidiary of AmerGen. AmerGen is a Delaware limited liability company formed to acquire and operate nuclear power plants in the United States. PECO Energy Company (PECO) and British Energy, Inc., (BE, Inc.), each own a 50-percent interest in AmerGen. BE, Inc., is a wholly owned subsidiary of British Energy, plc. The conforming license amendment would remove references to VYNPC from the license and add references to AmerGen Vermont in respective places, and make other administrative changes of a similar nature to reflect the proposed transfer.

Approval of the transfer of the facility operating license and a conforming license amendment was requested by VYNPC and AmerGen Vermont pursuant to 10 CFR 50.80 and 50.90. Notice of the requests for approval and for an opportunity for a hearing was published in the *Federal Register* on February 3, 2000 (65 FR 5376). Pursuant to such notice, the Commission received two requests for hearing. One hearing request was from the State of Vermont Department of Public Service, dated February 23, 2000. A second hearing request was filed by the Citizens Awareness Network, dated February 22, 2000. Commission review of these hearing requests is pending.

Pursuant to 10 CFR §2.1316, during the pendency of a hearing, the staff is expected to promptly proceed with the approval or denial of license transfer requests consistent with the NRC staff’s findings in its Safety Evaluation Report (SER). Notice of the action shall be promptly transmitted to the Presiding Officer and parties to the proceeding. Commission action on the pending hearing requests is being handled independently of this action.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. After reviewing the information submitted in the application and other information before the Commission, and relying upon the representations and agreements contained in the application, the Nuclear Regulatory Commission (NRC) staff has determined that AmerGen Vermont is qualified to be the holder of the license, and that the transfer of the license to AmerGen Vermont is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations set forth in 10 CFR Chapter 1; that the facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission; that there is reasonable assurance that the activities authorized by the proposed license amendment can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; that the issuance of the proposed license amendment will not be inimical to the common defense and security or to the health and safety of the public; and that the issuance of the proposed license amendment will be in accordance with 10 CFR Part 51 of the Commission's regulations, and that all applicable requirements have been satisfied. These findings are supported by a safety evaluation dated July 7, 2000.

### III.

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended; 42 U.S.C. §§ 2201(b), 2201(i), and 2234; and 10 CFR 50.80, IT IS

HEREBY ORDERED that the transfer of the license as described herein to AmerGen Vermont is approved, subject to the following conditions:

- (1) AmerGen Vermont shall take no action to cause PECO or BE, Inc., or their affiliates, successors or assigns, to void, cancel, or diminish their \$200 million contingency commitment to provide funding for AmerGen's nuclear power plants, including but not limited to any plant owned by any subsidiary of AmerGen, the existence of which is represented in the application, or cause them to fail to perform or impair their performance under the commitment, or remove or interfere with AmerGen or AmerGen Vermont's ability to draw upon the commitment. Also, AmerGen Vermont shall inform the NRC in writing at any time that it or AmerGen, for the benefit of AmerGen Vermont, draws upon the \$200 million commitment.
- (2) AmerGen Vermont shall provide decommissioning funding assurance of no less than \$280 million, after payment of any taxes, deposited in the decommissioning trust fund for Vermont Yankee when Vermont Yankee is transferred to AmerGen Vermont.
- (3) The decommissioning trust agreement must be in a form acceptable to the NRC.
- (4) With respect to the decommissioning trust fund, investments in the securities or other obligations of PECO, BE, Inc., AmerGen, AmerGen Vermont, or their affiliates, successors, or assigns shall be prohibited. Except for investments tied to market indexes or other nonnuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited.
- (5) The decommissioning trust agreement must provide that no disbursements or payments from the trust shall be made by the trustee until the trustee has first given the NRC 30 days' prior written notice of payment. The decommissioning

trust agreement shall further contain a provision that no disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the Director, Office of Nuclear Reactor Regulation.

- (6) The decommissioning trust agreement must provide that the agreement cannot be amended in any material respect without 30 days' prior written notification to the Director, Office of Nuclear Reactor Regulation.
- (7) The appropriate section of the trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.
- (8) AmerGen Vermont shall take all necessary steps to ensure that the decommissioning trust is maintained in accordance with the application for approval of the transfer of the Vermont Yankee license to it, the requirements of this Order approving the transfer, and the safety evaluation supporting this Order.
- (9) The AmerGen Vermont Limited Liability Company Agreement dated January 1, 2000, and any subsequent amendments thereto as of the date of this Order, may not be modified in any material respect concerning decision-making authority over "safety issues" as defined therein without the prior written consent of the Director, Office of Nuclear Reactor Regulation.
- (10) At least half of the members of the Management Committee of AmerGen Vermont shall be appointed by a non-foreign member group of AmerGen, all of which appointees shall be U.S. citizens.
- (11) The Chief Executive Officer (CEO), Chief Nuclear Officer (if someone other than the CEO), and Chairman of the Management Committee of AmerGen Vermont shall be U.S. citizens. These individuals shall have the responsibility and exclusive

authority to ensure, and shall ensure, that the business and activities of AmerGen Vermont with respect to the Vermont Yankee operating license are at all times conducted in a manner consistent with the protection of the public health and safety and the common defense and security of the United States.

- (12) AmerGen Vermont shall cause to be transmitted to the Director, Office of Nuclear Reactor Regulation, within 30 days of filing with the U.S. Securities and Exchange Commission, any Schedules 13D or 13G filed pursuant to the Securities Exchange Act of 1934 that disclose beneficial ownership of any registered class of stock of PECO or of any affiliate, successor, or assignee of PECO to which PECO's ownership interest in AmerGen may be subsequently assigned with the prior written consent of the NRC, [or of the parent or owner of such affiliate, successor, or assignee, whichever entity is the issuer of such stock.]
- (13) Before the completion of the sale and transfer of Vermont Yankee to it, AmerGen Vermont shall provide the Director, Office of Nuclear Reactor Regulation, satisfactory documentary evidence that AmerGen Vermont has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.
- (14) After receipt of all required regulatory approvals of the transfer of Vermont Yankee, AmerGen Vermont and VYNPC shall inform the Director, Office of Nuclear Reactor Regulation, in writing of such receipt within 5 business days, and of the closing date of the sale and transfer of Vermont Yankee no later than 7 business days prior to the date of closing. If the transfer of the license is not completed by July 1, 2001, this Order shall become null and void, provided, however, on written application and for good cause shown, this date may, in writing, be extended.

IT IS FURTHER ORDERED that, consistent with 10 CFR 2.1315(b), a license amendment that makes changes, as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform the license to reflect the subject license transfer is approved. The amendment shall be issued and made effective at the time the proposed license transfer is completed.

This Order is effective upon issuance.

For further details with respect to this order, see the initial application dated January 6, 2000, supplemental letters dated January 13, February 18, March 13, March 30, and April 6, 2000, and the safety evaluation dated July 7, 2000, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>).

Dated at Rockville, Maryland, this 7th day of July 2000.

FOR THE NUCLEAR REGULATORY COMMISSION

*/RA/*

Roy P. Zimmerman, Acting Director  
Office of Nuclear Reactor Regulation